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10/001,536	11/13/2001	Clayton L. Munk	95-317C	2989

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EXAMINER

SWIATEK, ROBERT P

ART UNIT

PAPER NUMBER

3643

DATE MAILED: 08/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/001,536

Applicant(s)

MUNK ET AL.

Examiner

Robert P. Swiatek

Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 18 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 68-87 is/are pending in the application.
- 4a) Of the above claim(s) 68-76 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 77-81 and 83-87 is/are rejected.
- 7) ☒ Claim(s) 82 is/are objected to.
- 8) ☒ Claim(s) 68-87 are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 November 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

The restriction requirement set forth in the first Office action is repeated and hereby made final. Claims 68-76 have been withdrawn from consideration and an action rendered on claims 77-87.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 77-81, 83-86 are rejected under 35 U.S.C. 102(b) as being anticipated by Palmer (2,330,185). The patent to Palmer discloses an aircraft wing construction including at least two spars 8, 9 having upper and lower flanges, upper and lower wing panels 11, 12, and intermediate cross ribs 10. The cross ribs 10 include upper and lower flanges 37 by which they can be fastened to the wing panels. Coordination features in the form of apertures extend through the flanges of the spars and ribs to allow passage of rivets for connection to the wing panels. Flanges 37 associated with nuts 48 of Palmer (see Figure 4 of Palmer) are connected to web 16 of spar 6 and are deemed to constitute rib posts; as to claims 83, 84, bolts 47 are considered to comprise temporary fasteners while bolts 41 are construed as permanent fasteners. The method by which the coordination features—apertures—have been created and their locations ascertained has not been given weight in the claims inasmuch as this is a method limitation and the claims recite an article. Applicants' process does not result in coordination features that can

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be differentiated *physically* from coordination features created by a skilled operator lacking the benefits of a computer-controlled machine tool and digital data and using only a manually-operated drill. An operator in such a case could meet very exacting tolerances if possessing sufficient skill and given ample time.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 87 is rejected under 35 U.S.C. 103(a) as being unpatentable over Palmer in view of Roeseler et al. (4,213,587). The Palmer reference lacks disclosure of a movable control surface hinged to the rear of the wing, although such a device must be present to enable successful operation of the aircraft. However, it would have been obvious to one skilled in the art to attach an aileron to the Palmer wing by using hinge ribs, hinge barrels, and pins, in view of the patent to Roeseler et al. that such an attachment system enables "efficient and economic designing and manufacturing of hinge arrangements for control surfaces" (see column 1, lines 58, 59, and elements 34, 40, 42 of Roeseler et al.).

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 85 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention. In claim 85, lines 3-5 ostensibly recite a method step in an article claim and are

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thus unclear; moreover, they eliminate elements—the temporary fasteners—previously recited in parent claim 83 as being present. A dependent claim includes all the limitations of its parent claim. It cannot “remove” or eliminate one or more previously recited elements.

Claim 82 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The drawings are objected to because reference numeral “144” (page 17, line 12) does not appear. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

The patents to Gitz et al. (2,483,134), Michael (2,881,994), and Pavlecka (3,002,717) have been cited to provide additional examples of aircraft wing structures.

RPS: J703/308-2700  
13 August 2003

*Robert P. Swiatek*  
**ROBERT P. SWIATEK**  
**PRIMARY EXAMINER**  
**ART UNIT 333 3643**